

## **REMARKS**

Claims 1, 5-8, 11-13, 17-19, and 23-24 are all the claims pending in the application.

Dependent claims 5, 6, 8, 11, 12, 17, 18, 23, and 24 are currently amended to merely delete the phrase, "all the limitations of which are incorporated herein by reference". No other amendments are made to pending claims 1, 5-8, 11-13, 17-19, and 23-24.

Claims 1, 5-8, 11-13, and 17-18 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent Application Publication No. 2005/0100209 to Lewis et al., hereinafter, Lewis, in view of U.S. Patent 6,625,500 to Li.

Claims 19 and 23-24 stand rejected under 35 U.S.C. §103(a) as unpatentable over Lewis, in view of Li, and further in view of U.S. Patent No. 5,333,304 to Christensen et al., hereinafter, Christensen.

Applicant respectfully traverses the rejections based on the following discussion.

### **I. The Prior Art Rejections**

#### **A. The 35 U.S.C. 103(a) Rejection over Lewis and Li**

This rejection is rendered moot as discussed below.

#### **B. The 35 U.S.C. 103(a) Rejection over Lewis, Li, and Christensen**

This rejection is rendered moot as discussed below.

#### **C. Arguments**

Applicant respectfully submits herewith a Rule 131 Declaration swearing behind the Lewis reference.

The Rule 131 Declaration effectively swears behind the Lewis reference based on the evidence presented in the Rule 131 Declaration and because the earliest priority date of Lewis is July 2, 2003. The accompanying Rule 131 Declaration makes clear that the Applicant's claimed

invention was conceived and reduced to practice prior to July 2, 2003. Thus, the Rule 131 Declaration effectively swears behind Lewis.

Therefore, Applicant respectfully submits that the accompanying Rule 131 Declaration removes the Lewis reference as prior art against the Applicant's claimed invention, thereby rendering the foregoing rejections moot.

## **II. Entry of Amendment and Rule 131 Declaration Required**

MPEP § 715.09 provides that a Rule 131 Declaration is considered timely submitted if it is submitted prior to a final rejection. Therefore, the attached Rule 131 Declaration, submitted herewith, swearing behind the Lewis reference is seasonably presented.

## **III. Formal Matters and Conclusion**

Claims 1, 5-8, 11-13, 17-19, and 23-24 are pending in the application.

The Rule 131 Declaration, submitted herewith, swears behind the Lewis reference thereby overcoming the rejections of claims 1, 5-8, 11-13, and 17-18 under 35 U.S.C. §103(a) as unpatentable over Lewis, in view of Li, and of claims 19 and 23-24 under 35 U.S.C. §103(a) as unpatentable over Lewis, in view of Li, and further in view of Christensen. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections to the claims.

In view of the foregoing, Applicant submits that claims 1, 5-8, 11-13, 17-19, and 23-24, all the claims presently pending in the application, are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest time possible.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Please charge any deficiencies and credit any overpayments to Attorney's Deposit  
Account Number 09-0441.

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Respectfully submitted,

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